



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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Notice of Proposed Supplementary Rules on Public Land in Water Canyon, Humboldt County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules relating to camping, the discharge of firearms, and the use of motor vehicles, to protect public safety and resources on public land within the Water Canyon Recreation Area. These proposed supplementary rules would include limitations and restrictions included within the decisions of the Water Canyon Recreation Area Management Plan, Environmental Assessment (EA), Decision Record, and Cooperative Management Agreement approved August 15, 1997, and the Water Canyon Implementation Plan Amendment EA signed August 2005.

DATES: Comments on the proposed supplementary rules must be received or postmarked by [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured consideration.

ADDRESSES: Please mail comments to Michael Truden, Winnemucca District, Humboldt River Field Office, 5100 E Winnemucca Boulevard, Winnemucca, Nevada 89445; or e-mail comments to wfoweb@nv.blm.gov, Attn: "Water Canyon."

FOR FURTHER INFORMATION CONTACT: Joey Carmosino, Winnemucca District, Humboldt River Field Office at 775-623-1771 or e-mail: vcarmosi@blm.gov.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION

- I. Public Comment Procedures
- II. Background
- III. Discussion of the Proposed Supplementary Rules
- IV. Procedural Matters
- V. Proposed Supplementary Rules

I. Public Comment Procedures

Written comments on the proposed supplementary rules should be specific, be confined to issues pertinent to the proposed supplementary rules, and explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the final supplementary rules comments either postmarked or electronically dated after the deadline or delivered to an address other than the address listed above (See **ADDRESSES**).

Comments (including names, street addresses, and other contact information of respondents) will be available for public review at the Winnemucca District Office, 5100

E. Winnemucca Boulevard, Winnemucca, Nevada. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

The Water Canyon Recreation Area is 4 miles southeast of Winnemucca, Nevada. Water Canyon is managed by the BLM Winnemucca District, Humboldt River Field Office with Recreation Management Zones. Zone 1, which is approximately 131 acres, is managed under moderate development actions organized around the lowland and riparian areas of the Water Canyon Recreation Area, allowing for more developed recreation in the form of established campgrounds, facilities, and trails. The Zone 2 upland area of approximately 2,579 acres is managed under an emphasis for more dispersed and undeveloped recreational opportunities. The BLM has completed two site-specific land use plans for the Water Canyon Recreation Area:

- The Water Canyon Management Plan, Cooperative Management Agreement, Environmental Assessment, and Decision Record (August 15, 1997); and
- The Water Canyon Implementation Plan Amendment, Environmental Assessment, and Decision Record (November 16, 2005).

These supplementary rules would affect public lands identified as Zone 1 of the Water Canyon Recreational Area. Zone 1, which is identified in the Water Canyon Management Plan and EA, and the Cooperative Management Agreement, is the portion

of the Canyon that receives the most recreational use. Zone 1 is a fenced corridor of public land within Township 35 North, Range 38 East, Mount Diablo Meridian, through portions of sections 2, 11, and 12, in Humboldt County, Nevada. The Zone 1 fenced corridor is of variable width perpendicular to the centerline of Water Canyon Road with an overall width average of approximately 600 feet and runs approximately 1.8 miles in length along Water Canyon Road, in Township 36 North Range 38 East, parts of sections 2, 11 and 12.

A map of the area is available at the Winnemucca District, Humboldt River Field Office at the address shown in the **ADDRESSES** section, above.

The proposed supplementary rules are necessary to help the BLM achieve management objectives and implement decisions in the Management Plan, associated EA, and Decision Record, Cooperative Management Agreement approved August 15, 1997, and the Implementation Plan signed August 2005 and to increase public safety.

The Cooperative Management Agreement for Water Canyon was a collaborative effort undertaken among the BLM, the Nevada Department of Wildlife, Humboldt County, the City of Winnemucca, and the public to elicit concerns, define issues, and develop a set of desired future conditions for the planning area. The outcome of this process was the development of a set of objectives intended to guide subsequent management actions within the canyon. These objectives, which can be found in the 2005 Implementation Plan, include: protecting surface and subsurface water quality within the watershed; providing recreational opportunities; preserving broad-leaved trees, high quality riparian areas, and grassy meadows; and providing for a diversity of wildlife habitats.

To achieve these objectives, the BLM evaluated a series of alternative proposals that prescribed different allowable uses of the planning area and defined other management actions to reach these desired outcomes. The evaluation process led to a series of management decisions that emphasized a combination of moderate and low development actions organized around the division of the planning area into lowland (Zone 1) and upland (Zone 2) areas.

III. Discussion of the Proposed Supplementary Rules

In the preparation of the two EAs, the BLM sought public review of three alternatives in the Management Plan and two alternatives in the Implementation Plan. These EAs discuss specific management actions that restrict certain activities and define allowable uses. The proposed supplementary rules would implement these management actions within Zone 1 of the Water Canyon Recreation Area.

The proposed supplementary rules would:

1. Limit camping within Zone 1 of the Water Canyon Recreation Area to no more than 3 consecutive nights in a 30-day period. Water Canyon is a popular recreational spot for the local community of Winnemucca. Limiting the length of camping would increase the opportunities for multiple community residents to enjoy the campground and enhance the experience of day users.
2. Prohibit the discharge of any firearm in Zone I. This rule is proposed as a safety measure. The City of Winnemucca, population 7,400, and Grass Valley, population 1,160, are in close proximity to Zone 1, which receives more than 50,000 visitors annually.

3. All motor vehicles must not exceed the posted speed limit of 20 miles per hour on the main access/canyon road in Zone I. This speed limit is proposed because there have been numerous accidents along the main access/canyon road in Zone 1. These accidents have primarily been a result of excess speed due to no posted or enforceable speed limit.

4. All motor vehicles are restricted to travel only on the main access/canyon road in Zone 1. This restriction is proposed to further protect the wetland and riparian areas that are in close proximity to the main access/canyon road in Zone 1.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

The proposed supplementary rules would not constitute a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. The proposed supplementary rules would not have an annual effect of \$100 million or more on the economy. They would not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. The proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor would they raise novel legal or policy issues. The proposed supplementary rules merely would be rules of conduct for public use of a limited area of public lands.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple

and easy to understand. The BLM invites your comments on how to make the proposed supplementary rules easier to understand, including answers to questions such as the following:

1. Are the requirements in the proposed supplementary rules clearly stated?
2. Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?
3. Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce clarity?
4. Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you have on the clarity of the rule to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

These proposed supplementary rules provide for enforcement of decisions made in:

- The Water Canyon Management Plan, Cooperative Management Agreement, EA, and Decision Record; and
- The Water Canyon Implementation Plan Amendment, Environmental Assessment, and Decision Record (November 16, 2005).

During the National Environmental Policy Act process for each plan, many proposed actions were fully analyzed, including these proposed supplementary rules. The pertinent

analysis and rationale can be found in the Management Plan, inclusive of the EA, Decision Record, and Cooperative Management Agreement approved August 15, 1997, and the Implementation Plan EA signed in 2005. The EAs mentioned above are available for review in the BLM administrative record at the address specified in the **ADDRESSES** section.

The BLM reviewed the EAs and found that the proposed supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (NEPA) Section 102(2)(C), 42 U.S.C. 4332(2)(C).

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended (5 U.S.C. 601–612) to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands. Therefore, the BLM has determined under the RFA that the proposed supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

The proposed supplementary rules are not a “major rule” as defined under 5 U.S.C. 804(2). The proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands and would not affect commercial

or business activities of any kind.

Unfunded Mandates Reform Act

The proposed supplementary rules would not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector of more than \$100 million per year; nor would they have a significant or unique effect on small governments. The proposed supplementary rules would have no effect on governmental or tribal entities and would impose no requirements on any of these entities. The proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands and would not affect tribal, commercial, or business activities of any kind. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

The proposed supplementary rules would not have significant takings implications, nor would they be capable of interfering with Constitutionally protected property rights. The proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands and would not affect anyone's property rights. Therefore, the BLM has determined that these rules would not cause a taking of private property or require preparation of a takings assessment under this Executive Order.

Executive Order 13132, Federalism

These proposed supplementary rules would not have a substantial direct effect on the states, the relationship between the national government and the states, nor the

distribution of power and responsibilities among the various levels of government.

These proposed supplementary rules would not come into conflict with any State law or regulation. Therefore, under Executive Order 13132, the BLM has determined that these proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that these proposed supplementary rules would not unduly burden the judicial system and that they would meet the requirements of Sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has determined that these proposed supplementary rules would not include policies that have tribal implications. There are no tribal implications associated with the proposed rule. The proposed rule applies only to the narrow Zone 1 area, which is within the larger area of Water Canyon. There are no tribal lands in the vicinity.

Paperwork Reduction Act

These proposed supplementary rules would not directly provide for any information collection that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Any information collection that may result from Federal criminal investigations or prosecution conducted under these proposed supplementary rules is exempt from the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3518(c)(1).

Author

The principal author of these proposed supplementary rules is Joey Carmosino, Humboldt River Field Office Recreation Planner, Winnemucca District, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445.

V. Proposed Supplementary Rules

For the reasons stated in the preamble and under the authorities for supplementary rules found at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the BLM Nevada State Director proposes supplementary rules for public lands managed by the BLM in Nevada, to read as follows:

Proposed Supplementary Rules for Zone 1 of the Water Canyon Recreation Area

Definitions:

Firearm means any weapon or any implement designed to or that may be converted to expel a projectile; including, but not limited to, by the action of an explosive, a compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blowgun, spear gun, spear, sling shot, or irritant gas device.

Motor vehicle includes, but is not limited to, automobiles, motorcycles, all-terrain vehicles, and off-highway vehicles.

Supplementary Rules:

1. These supplementary rules apply, except as specifically exempted, to activities within Zone 1 of the Water Canyon Recreation Area, which is comprised of public lands administered by the BLM near Winnemucca, Nevada.
2. These supplementary rules are in effect on a year-round basis.
3. Camping in Zone I is limited to no more than 3 consecutive nights in a 30-day period.

4. The discharge of any firearm in Zone I is prohibited.
5. All motor vehicles must not exceed the posted speed limit of 20 miles per hour on the main access/canyon road in Zone I.
6. All motor vehicles are restricted to travel only on the main access/canyon road in Zone 1.

Exemptions:

The following persons are exempt from these supplementary rules: any Federal, State, local or military persons acting within the scope of their duties; and members of an organized rescue or firefighting force in performance of an official duty.

Penalties:

Under Section 303(a) of the Federal Land Policy and Management Act (43 U.S.C. 1733(a)) and 43 CFR 8360.0-7, any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Nevada law.

Amy Lueders
Bureau of Land Management
State Director, Nevada

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